

BRETT A. AXELROD, ESQ.
Nevada Bar No. 5859
MICAELA RUSTIA MOORE, ESQ.
Nevada Bar No. 9676
FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Telephone: (702) 262-6899
Facsimile: (702) 597-5503
Email: baxelrod@foxrothschild.com
mmoore@foxrothschild.com
*[Proposed] Counsel for Martifer Aurora Solar, LLC
and Martifer Solar USA, Inc.*

Electronically Filed January 27, 2014

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re

MARTIFER SOLAR USA, INC., a
California corporation,

Debtor.

Case No. BK-S-14-10357-abl

Chapter 11

**DECLARATION OF BRETT AXELROD,
ESQ. IN SUPPORT OF DEBTORS'
RESPONSE TO CATHAY BANK'S
OMNIBUS OPPOSITION TO FIVE EX
PARTE APPLICATION FOR ORDERS
SHORTENING TIME FILED ON OR
AFTER FRIDAY, JANUARY 24, 2014,
SEEKING HEARINGS TOMORROW**

I, Brett Axelrod, declare under penalty of perjury as follows:

1. I am over the age of 18, have personal knowledge of the facts in this matter, and if called upon to testify, could and would do so.

2. I am an attorney with the law firm of FOX ROTHSCHILD LLP and represent Martifer Aurora Solar, LLC ("Aurora"), and Martifer Solar USA, Inc. ("Martifer USA", together with Aurora, the "Debtors") in this matter. I submit this declaration in support of Debtors' response ("Response")¹ to Cathay Bank's ("Cathay") Omnibus Opposition to Five Ex Parte Applications for Orders Shortening

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Response.

1 Time Filed on or After Friday, January 24, 2014 [Dkt #52 in Case No. 14-10355, Dkt #50 in Case No.
2 14-10357 and Dkt #10 in Case No. 14-01014] (the "Opposition") and the supporting declaration of
3 Michael Fletcher [Dkt #53 in Case No. 14-10355, Dkt #51 in Case No. 14-10357 and Dkt #11 in Case
4 No. 14-01014] (the "Fletcher Declaration").

5 3. On Tuesday, January 21, 2014 (the "Petition Date"), Debtors filed their chapter 11
6 voluntary petitions. I sent a copy of the voluntary petition for Aurora to Mr. Hemal Master, counsel
7 for Cathay and Mr. Hemal inquired whether a voluntary petition for Martifer USA was forthcoming.
8 (See Ex. A attached hereto). I also spoke to Mr. Master regarding the various motions for first day
9 relief Debtors intended on filing and inquired as to whether Cathay consented to the hearings to be
10 heard on shortened time. Mr. Master did not provide a definitive response on consent to having the
11 matters heard on shortened time but indicated a preference for a January 24, 2014 hearing date.

12 4. Debtors have made every effort to reach a consensual agreement with Cathay for the
13 emergency use of cash collateral. As acknowledged by Cathay, Debtors immediately forwarded a draft
14 cash collateral stipulation on the morning of January 22, 2014 at 4:28 a.m. (the day after the Petition
15 Date) and requested that Cathay review at its earliest convenience as the first day hearing would be
16 requested for as early as that week. (See Fletcher Declaration, Ex. 4, p. 6). As confirmed by the email
17 exchange attached as Exhibit "4" to the Fletcher Declaration, not only did Debtors' counsel provide
18 immediate responses to the requests made by counsel for Cathay, but Debtors' counsel also
19 repeatedly attempted to initiate discussions with Cathay regarding Debtors' emergency need to
20 use cash collateral. (See also Exhibit "B" attached hereto, which are additional emails from the
21 exchange). Notwithstanding these repeated requests, Cathay refused to provide a response to the
22 proposed consensual use of cash collateral. (See Ex. A). Moreover, the terms for the use of cash
23 collateral requested therein are substantially the same as the terms proposed in the draft cash collateral
24 stipulation provided to Cathay on January 22. Therefore, Cathay has had nearly one week to evaluate
25 the proposed emergency use of cash collateral, which is more than sufficient in this context,
26 particularly given the long history of pre-petition discussions and negotiations between the parties.

27 5. Further, with respect to allegations regarding a "misleading" attorney information sheet,
28 it was amended prior to Cathay's filing of the Opposition. (See Dkt #41 in Case No. 14-10357 and Dkt

1 #41, replaced by the Errata filed as Dkt #45 in Case No. 14-10357). The elaborate description added to
 2 the attorney information sheet, however, does not change the fact that, at that point, Cathay still had
 3 not expressed consent to use of cash collateral or to having the hearing on the Cash Collateral Motion
 4 heard on shortened time.

5 6. Cathay's counsel acknowledges that, on January 22, 2014 at 12:52 p.m., they were
 6 advised that Debtors were seeking DIP financing and Debtors' counsel directed them to the relevant
 7 provision in the draft cash collateral stipulation circulated hours earlier that day. (See Ex. B, p. 4).

8 7. Exhibit 4 to the Fletcher Declaration also shows that Mr. Master is the attorney at
 9 Frandzel Robins Bloom & Csato that the draft cash collateral stipulation was directed to and is copied
 10 throughout all communications. My colleagues and I were informed and believe that Mr. Master was a
 11 point of contact for Cathay. (See Ex. A and Ex. C attached hereto). In addition to the correspondence
 12 between counsel regarding the use of cash collateral, a member of my staff sent an email to Mr. Master
 13 formally requesting consent to a hearing on shortened time on the DIP Financing Motion, as well as the
 14 Cash Collateral Motion, on Thursday, January 23, 2014 at 6:43 p.m. (See Ex. D attached hereto).
 15 Thus, Cathay's counsel received notice prior to the times set forth in paragraph 7 of the Opposition.

16 8. Contrary to Mr. Fletcher's allegation in the email attached as Exhibit 7 to his
 17 declaration, consent was requested for the order shortening for hearing on the TRO Motion. On
 18 Friday, January 24, 2014 at 10:29 p.m., my partner emailed Cathay's counsel, Michael Fletcher, Reed
 19 S. Waddell, Randolph L. Howard and Natalie M. Cox, to request Cathay's consent to have the hearing
 20 on the TRO Motion on shortened time and immediately received notifications that delivery of such
 21 email was complete. Additional tracking notifications relayed that the email was "read" by Ms. Cox
 22 on Friday, January 24, 2014 at 11:07 p.m. by Mr. Waddell on Saturday, January 25 at 12:29 a.m., and
 23 by Mr. Fletcher on Saturday, January 25 at at 7:20 a.m. (See Ex. E attached hereto).

24 9. After Cathay's counsel indicated they did not consent to the Cash Collateral Motion, the
 25 DIP Financing Motion and the TRO to be heard on shortened time (see Fletcher Declaration, Ex. 7), I
 26 proposed that Debtors would accommodate Cathay's request for a continuance of the Cash Collateral
 27 Motion and TRO Motion if Cathay allowed use of cash collateral and a standstill of the litigation that is
 28 the subject of the TRO Motion until the continued hearing dates. My partner provided Cathay with

1 financial information it requested, as well as a proposed stip and order. (See Ex. F attached hereto).

2 Neither my partner nor I have received a response as of the filing of this Response.

3 I declare under penalty of perjury under the laws of the United States that the foregoing is true
4 and correct.

5 DATED this 27th day of January 2014.

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7 /s/Brett Axelrod
8 BRETT AXELROD
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EXHIBIT A

Axelrod, Brett A.

From: Hemal K. Master <hmaster@frandzel.com>
Sent: Tuesday, January 21, 2014 4:12 PM
To: Axelrod, Brett A.
Cc: Michael Fletcher; Marshall August; Bob Benjy
Subject: RE: voluntary petition

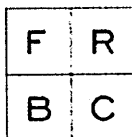
Thanks Brett. Please advise as to whether Martifer Solar USA, Inc. will also be filing today and if so, please send us the filed petition as soon as you have it. Until we receive such a filed petition, we intend on moving forward with the ex-parte motion tomorrow morning for a receiver.

Hemal K. Master
FRANDZEL ROBINS BLOOM & CSATO, L.C.
6500 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90048-4920
Phone: 323-852-1000
Facsimile: 323-651-2577
E-mail: hmaster@frandzel.com
Web: www.frandzel.com

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35 YEARS
of SERVICE

From: Axelrod, Brett A. [<mailto:BAxelrod@foxrothschild.com>]
Sent: Tuesday, January 21, 2014 3:02 PM
To: Hemal K. Master
Subject: voluntary petition

ATTENTION: IRS CIRCULAR 230 DISCLOSURE: Pursuant to Treasury Regulations, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used or relied upon by you or any other person, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any tax advice addressed herein.
----- This e-mail contains PRIVILEGED AND CONFIDENTIAL
INFORMATION intended only for the use of the Individual(s) named above. If you are not the intended

recipient of this e-mail, or the employee or agent responsible for delivering this to the intended recipient, you are hereby notified that any dissemination or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone at (215)-299-2167 or notify us by e-mail at helpdesk@foxrothschild.com. Also, please mail a hardcopy of the e-mail to Fox Rothschild LLP, 2000 Market Street, Philadelphia PA 19103-3222 via the U.S. Postal Service. We will reimburse you for all expenses incurred. Thank you.

EXHIBIT B

Rustia Moore, Micaela

From: nschultzesq@gmail.com
Sent: Friday, January 24, 2014 12:07 PM
To: Hemal K. Master; Michael Fletcher
Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Axelrod, Brett A.; Rustia Moore, Micaela; James Wong <jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart; Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura
Subject: Re: Martifer: Draft Cash Collateral Stipulation

Three items in your email below bear correction:

1. It is not correct that the first you saw of the 13-week cash flow filed with the motion last night was when the motion was filed. I sent it to you at 7:04 pm Pacific well before the motion was filed. Moreover that version was only slightly modified from what I sent you on Wednesday.
2. I never said anything about bad faith-- you used those words but I haven't. That being said, one cannot negotiate in good faith if one is refusing to negotiate at all.
3. I have no intent to bandy and wouldn't even know how. I'm not from Australia.

As we've assured you and your client, the Debtors have every intent to act consistent with their obligations as chapter 11 debtors. As for the mirror, we will all face our judgment sooner or later, and I sleep well every night ready to face mine.

If you have something constructive to say, I'm all ears.

Nathan A. Schultz, Esq.
Law Office of Nathan A. Schultz, P.C.
10621 Craig Road
Traverse City, MI 49686
Phone: 310.429.7128
Fax: 231.421.5731
Email: nschultzesq@gmail.com

From: Michael Fletcher
Sent: Friday, January 24, 2014 2:09 PM
To: nschultzesq@gmail.com; Hemal K. Master
Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong <jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart; Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

The Bank evaluating the situation, the underlying facts and circumstances, and its options is hardly bad faith. We asked Martifer for the proposed or draft bankruptcy cash collateral budget in December when you and yours said that you were finalizing it. Martifer didn't provide it. We saw the version that Martifer intended to rely on only when you filed it last night. Before you start bandying about bad faith comments, perhaps a look in the mirror might be in order. We assume that your client will take whatever actions it decides are necessary. The Bank intends to do the same.

Michael Fletcher

FRANDZEL ROBINS BLOOM & CSATO, L.C.

6500 Wilshire Boulevard, 17th Floor


Los Angeles, CA 90048-4920

Phone: 323-852-1000

Facsimile: 323-651-2577

E-mail: mfletcher@frandzel.com

Web: www.frandzel.com

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From: nschultzesq@gmail.com [mailto:nschultzesq@gmail.com]

Sent: Friday, January 24, 2014 8:45 AM

To: Hemal K. Master; Michael Fletcher

Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong

<jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart;

Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

Subject: Re: Martifer: Draft Cash Collateral Stipulation

Thank you for acknowledging my email. It looks like the time horizon for the Bank's evaluative process and the Debtors' urgent need to use cash collateral are not in alignment. Perhaps your client will reach a decision to negotiate in good faith regarding consensual use of cash collateral at some point, but the Debtors cannot stand by waiting to find out if and when that will happen.

Nathan A. Schultz, Esq.

Law Office of Nathan A. Schultz, P.C.

10621 Craig Road

Traverse City, MI 49686

Phone: 310.429.7128

Fax: 231.421.5731

Email: nschultzesq@gmail.com

From: Michael Fletcher

Sent: Friday, January 24, 2014 11:09 AM

To: 'nschultzesq@gmail.com'; Hemal K. Master

Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong

<jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart;


Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

Nathan: the Bank continues to evaluate its options.

Michael Fletcher

FRANDZEL ROBINS BLOOM & CSATO, L.C.

6500 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90048-4920
Phone: 323-852-1000
Facsimile: 323-651-2577
E-mail: mfletcher@frandzel.com
Web: www.frandzel.com

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From: nschultzesq@gmail.com [<mailto:nschultzesq@gmail.com>]

Sent: Thursday, January 23, 2014 7:40 PM

To: Hemal K. Master; Michael Fletcher

Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong
<jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart;

Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

Subject: Re: Martifer: Draft Cash Collateral Stipulation

Gentlemen:

I just want to make sure that my email has been working properly and your response to the cash collateral stipulation that I forwarded a day and a half ago has not gotten lost in the ether or been absconded by my spam filter.

If your client does not intend to engage in any good faith negotiations regarding the use of cash collateral, then I would very much appreciate the courtesy of a simple response advising of that fact.

As indicated in Brett's letter of today, the Debtors remain of the view that a consensual agreement for the use of cash collateral would serve the interests of all involved.

Please also see the slightly revised draft 13-week cash flow attached.

Thank you in advance for your prompt and earnest response,
Nathan

Nathan A. Schultz, Esq.
Law Office of Nathan A. Schultz, P.C.
10621 Craig Road
Traverse City, MI 49686
Phone: 310.429.7128
Fax: 231.421.5731
Email: nschultzesq@gmail.com

From: nschultzesq@gmail.com

Sent: Wednesday, January 22, 2014 12:52 PM

To: Hemal K. Master; Michael Fletcher

Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong <jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart; Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

The DIP facility contemplated by the cash flow would be provided by the parent company on a junior lien basis-- see paragraph 7 of the draft cash collateral stipulation.

My understanding of the opening cash balance is that it would include amounts on deposit with Cathay and CB&T.

Nathan A. Schultz, Esq.

Law Office of Nathan A. Schultz, P.C.

10621 Craig Road

Traverse City, MI 49686

Phone: 310.429.7128

Fax: 231.421.5731

Email: nschultzesq@gmail.com

From: Michael Fletcher

Sent: Wednesday, January 22, 2014 12:38 PM

To: nschultzesq@gmail.com; Hemal K. Master

Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong <jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart; Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

The Bank will undoubtedly have other questions and comments, but my initial ones are: (1) what is the DIP facility, who is the lender, and what is the proposed collateral; and (2) what is the nature of the opening cash balance of \$505,700?

Michael Fletcher

FRANDZEL ROBINS BLOOM & CSATO, L.C.

6500 Wilshire Boulevard, 17th Floor


Los Angeles, CA 90048-4920

Phone: 323-852-1000

Facsimile: 323-651-2577

E-mail: mfletcher@frandzel.com

Web: www.frandzel.com

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From: nschultzesq@gmail.com [<mailto:nschultzesq@gmail.com>]
Sent: Wednesday, January 22, 2014 9:28 AM
To: Hemal K. Master; Michael Fletcher
Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong
<jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart;
Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura
Subject: Re: Martifer: Draft Cash Collateral Stipulation

And your wish is my command...

This remains subject to review/update so all rights are reserved.

Nathan A. Schultz, Esq.
Law Office of Nathan A. Schultz, P.C.
10621 Craig Road
Traverse City, MI 49686
Phone: 310.429.7128
Fax: 231.421.5731
Email: nschultzesq@gmail.com

From: nschultzesq@gmail.com
Sent: Wednesday, January 22, 2014 12:14 PM
To: Hemal K. Master; Michael Fletcher
Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong
<jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart;
Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

All good things to those who wait-- I will see what I can do.

Nathan A. Schultz, Esq.
Law Office of Nathan A. Schultz, P.C.
10621 Craig Road
Traverse City, MI 49686
Phone: 310.429.7128
Fax: 231.421.5731
Email: nschultzesq@gmail.com

From: Michael Fletcher
Sent: Wednesday, January 22, 2014 12:13 PM
To: nschultzesq@gmail.com; Hemal K. Master
Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong
<jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart;
Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

That is what we have been expecting to receive, for awhile now.

Michael Fletcher

FRANDZEL ROBINS BLOOM & CSATO, L.C.

6500 Wilshire Boulevard, 17th Floor


Los Angeles, CA 90048-4920

Phone: 323-852-1000

Facsimile: 323-651-2577

E-mail: mfletcher@frandzel.com

Web: www.frandzel.com

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From: nschultzesq@gmail.com [<mailto:nschultzesq@gmail.com>]

Sent: Wednesday, January 22, 2014 9:11 AM

To: Hemal K. Master; Michael Fletcher

Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong
<jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart;

Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

Subject: Re: Martifer: Draft Cash Collateral Stipulation

Are you asking for a draft of the initial 13-week cash flow to review?

Nathan A. Schultz, Esq.

Law Office of Nathan A. Schultz, P.C.

10621 Craig Road

Traverse City, MI 49686

Phone: 310.429.7128

Fax: 231.421.5731

Email: nschultzesq@gmail.com

From: Michael Fletcher

Sent: Wednesday, January 22, 2014 12:05 PM

To: nschultzesq@gmail.com; Hemal K. Master

Cc: Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong
<jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart;


Sam@schwartzlawyers.com; Eileen Lewis; Gregory Badura

At least 3 weeks ago, Martifer claimed to be working on a cash collateral projection. Where is it?

Michael Fletcher

FRANDZEL ROBINS BLOOM & CSATO, L.C.

6500 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90048-4920
Phone: 323-852-1000
Facsimile: 323-651-2577
E-mail: mfletcher@frandzel.com
Web: www.frandzel.com

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From: nschultzesq@gmail.com [<mailto:nschultzesq@gmail.com>]

Sent: Wednesday, January 22, 2014 4:28 AM

To: Hemal K. Master

Cc: Michael Fletcher; Reed S. Waddell; Christopher D. Crowell; Avi Muhtar; Brett A. Axelrod; Micaela Rustia Moore; James Wong <jwong@armoryconsulting.com> (jwong@armoryconsulting.com); Roland Kiser; Klaus Bernhart; Sam@schwartzlawyers.com

Subject: Martifer: Draft Cash Collateral Stipulation

Hemal:

Attached please find a draft cash collateral stipulation.

Please review and advise at your earliest convenience whether this is acceptable to your client. As I believe you are aware, we are hoping to schedule a first day hearing as early as this week.

Due to the timing constraints, this draft remains under internal review on our side, and all rights are reserved.

Thank you,
Nathan

Nathan A. Schultz, Esq.
Law Office of Nathan A. Schultz, P.C.
10621 Craig Road
Traverse City, MI 49686
Phone: 310.429.7128
Fax: 231.421.5731
Email: nschultzesq@gmail.com

EXHIBIT C

Axelrod, Brett A.

From: Hemal K. Master <hmaster@frandzel.com>
Sent: Tuesday, January 21, 2014 9:51 AM
To: pedro.gomes.pereira@martifer.com; kbernhart@martifersolarusa.com;
jose.n.oliveira@martifer.com; rkiser@martifersolarusa.com;
amuhtar@martifersolarusa.com; Axelrod, Brett A.; jsamberg@wrslawyers.com;
eabrill@brill-law.com; eabrill@mindspring.com
Cc: Eileen.Lewis@cathaybank.com; Gregory Badura; Michael Fletcher; Marshall August; Bob Benjy
Subject: Ex Parte Notice - Cathay Bank v. Martifer Solar USA, Inc. et al. (LASC Case No. SC121853)
Attachments: Ex Parte Notice Letter .pdf

All,

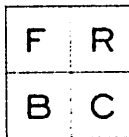
Please see attached correspondence regarding Cathay Bank's ex-parte notice provided this morning. Thank you.

Hemal K. Master
FRANDZEL ROBINS BLOOM & CSATO, L.C.
6500 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90048-4920
Phone: 323-852-1000
Facsimile: 323-651-2577
E-mail: hmaster@frandzel.com
Web: www.frandzel.com

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35 YEARS
of SERVICE

EXHIBIT D

Rustia Moore, Micaela

From: Chlum, Patricia
Sent: Thursday, January 23, 2014 6:43 PM
To: j.michal.bloom@usdoj.com; hmaster@frandzel.com; Sam@schwartzlawyers.com; jritzenberg@hinckleyallen.com; dfinnegan@bulkley.com
Cc: Axelrod, Brett A.; Rustia Moore, Micaela
Subject: In re Martifer Solar USA, Inc. - Case No. 14-10357-abl

Martifer Solar USA, Inc. intends to file the motions listed below and will be seeking an order shortening time requesting that the Court hear the motions on **Tuesday, January 28, 2014 at 9:30 a.m.** Please advise if you consent to the hearing on order shortening time by responding to this email.

- Motion for Interim and Final Orders Pursuant to 11 U.S.C. §§ 361, 362 and 363 and Fed. R. Bankr. P. 4001(b) and 4001(d): (I) Authorizing Debtor to Use Cash Collateral and Provide Adequate Protection Pursuant to Agreement with Pre-Petition Lenders; (II) Granting Related Relief; and (III) Scheduling Final Hearing ("Cash Collateral Motion");
- Motion for Order Pursuant to 11 U.S.C. § 364 and Fed. R. Bankr. P. 4001(c): (I) Authorizing Debtor to Obtain Post-Petition Financing; and (II) Granting Related Relief (the "Motion for Post-Petition Financing"); and
- Motion for Order Establishing Certain Case Management, Notice and Administrative Procedures ("Case Management Procedures Motion").

Patricia Chlum

Paralegal

Fox Rothschild LLP

3800 Howard Hughes Pkwy

Suite 500

Las Vegas, NV 89169

(702) 699-5909 - direct

702-597-5503- fax

PChlum@foxrothschild.com

www.foxrothschild.com

Rustia Moore, Micaela

From: Chlum, Patricia
Sent: Thursday, January 23, 2014 6:50 PM
To: j.michal.bloom@usdoj.com; hmaster@frandzel.com; Sam Schwartz
Cc: Axelrod, Brett A.; Rustia Moore, Micaela
Subject: In re Martifer Aurora Solar, LLC - Case No. 14-10355-abl

Martifer Aurora Solar, LLC intends to file the motions listed below and will be seeking an order shortening time requesting that the Court hear the motions on **Tuesday, January 28, 2014 at 9:30 a.m.** Please advise if you consent to the hearing on order shortening time by responding to this email.

- Motion for Interim and Final Orders Pursuant to 11 U.S.C. §§ 361, 362 and 363 and Fed. R. Bankr. P. 4001(b) and 4001(d): (I) Authorizing Debtor to Use Cash Collateral and Provide Adequate Protection Pursuant to Agreement with Pre-Petition Lenders; (II) Granting Related Relief; and (III) Scheduling Final Hearing ("Cash Collateral Motion");
- Motion for Order Pursuant to 11 U.S.C. § 364 and Fed. R. Bankr. P. 4001(c): (I) Authorizing Debtor to Obtain Post-Petition Financing; and (II) Granting Related Relief (the "Motion for Post-Petition Financing"); and
- Motion for Order Establishing Certain Case Management, Notice and Administrative Procedures ("Case Management Procedures Motion").

Patricia Chlum

Paralegal

Fox Rothschild LLP

3800 Howard Hughes Pkwy

Suite 500

Las Vegas, NV 89169

(702) 699-5909 - direct

702-597-5503- fax

PChlum@foxrothschild.com

www.foxrothschild.com

EXHIBIT E

Rustia Moore, Micaela

From: Rustia Moore, Micaela
Sent: Friday, January 24, 2014 10:29 PM
To: Reed S. Waddell (rwaddell@frandzel.com); Michael Fletcher (mfletcher@frandzel.com); Randolph L. Howard; Natalie M. Cox
Cc: Brett Axelrod (BAxelrod@foxrothschild.com); Nathan Schultz (nschultzesq@gmail.com); Chlum, Patricia
Subject: In re Martifer Solar Aurora, LLC and In re Martifer Solar USA, Inc.

Counsel,

As you may have noted in the motion for debtor in possession financing filed this evening, Debtors Martifer Solar Aurora, LLC and Martifer Solar USA, Inc. will be filing a complaint for preliminary injunction against Cathay Bank to enjoin Cathay Bank from prosecuting the lawsuit, filed in the Superior Court of California County of Los Angeles, West District bearing Case No. SC121853, against Martifer Solar, Inc. and Martifer Solar S.A.

Pursuant to Local Rule 9006, I am requesting your consent to having the hearing on the *Motion for Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should not Issue* heard on shortened time. Please advise.

Micaela Rustia Moore, Esq.

Partner

Fox Rothschild LLP

3800 Howard Hughes Pkwy

Suite 500

Las Vegas, NV 89169

(702) 699-5911 - direct

(702) 597-5503- fax

MMoore@foxrothschild.com

www.foxrothschild.com

Rustia Moore, Micaela

From: Microsoft Outlook
To: Reed S. Waddell (rwaddell@frandzel.com); Michael Fletcher (mfletcher@frandzel.com); Randolph L. Howard; Natalie M. Cox; Nathan Schultz (nschultzesq@gmail.com)
Sent: Friday, January 24, 2014 10:29 PM
Subject: Relayed: In re Martifer Solar Aurora, LLC and In re Martifer Solar USA, Inc.

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Reed S. Waddell \(rwaddell@frandzel.com\)](mailto:rwaddell@frandzel.com) (rwaddell@frandzel.com)

[Michael Fletcher \(mfletcher@frandzel.com\)](mailto:mfletcher@frandzel.com) (mfletcher@frandzel.com)

[Randolph L. Howard \(RHoward@klnevada.com\)](mailto:RHoward@klnevada.com)

[Natalie M. Cox \(ncox@klnevada.com\)](mailto:ncox@klnevada.com)

[Nathan Schultz \(nschultzesq@gmail.com\)](mailto:nschultzesq@gmail.com) (nschultzesq@gmail.com)

Subject: In re Martifer Solar Aurora, LLC and In re Martifer Solar USA, Inc.

Rustia Moore, Micaela

From: Natalie M. Cox <ncox@klnevada.com>
To: Rustia Moore, Micaela
Sent: Friday, January 24, 2014 11:07 PM
Subject: Read: In re Martifer Solar Aurora, LLC and In re Martifer Solar USA, Inc.

Your message

To:
Subject: In re Martifer Solar Aurora, LLC and In re Martifer Solar USA, Inc.
Sent: Saturday, January 25, 2014 2:07:20 AM (UTC-05:00) Eastern Time (US & Canada)

was read on Saturday, January 25, 2014 2:06:51 AM (UTC-05:00) Eastern Time (US & Canada).

Rustia Moore, Micaela

From: Reed S. Waddell <rwaddell@frandzel.com>
To: Rustia Moore, Micaela
Sent: Saturday, January 25, 2014 12:29 AM
Subject: Read: In re Martifer Solar Aurora, LLC and In re Martifer Solar USA, Inc.

Your message

To:
Subject: In re Martifer Solar Aurora, LLC and In re Martifer Solar USA, Inc.
Sent: Saturday, January 25, 2014 3:28:50 AM (UTC-05:00) Eastern Time (US & Canada)

was read on Saturday, January 25, 2014 3:28:40 AM (UTC-05:00) Eastern Time (US & Canada).

Rustia Moore, Micaela

From: Michael Fletcher <mfletcher@frandzel.com>
To: Rustia Moore, Micaela
Sent: Saturday, January 25, 2014 7:20 AM
Subject: Read: In re Martifer Solar Aurora, LLC and In re Martifer Solar USA, Inc.

Your message

To:
Subject: In re Martifer Solar Aurora, LLC and In re Martifer Solar USA, Inc.
Sent: Saturday, January 25, 2014 10:19:48 AM (UTC-05:00) Eastern Time (US & Canada)

was read on Saturday, January 25, 2014 10:19:38 AM (UTC-05:00) Eastern Time (US & Canada).

EXHIBIT F

Rustia Moore, Micaela

From: Rustia Moore, Micaela
Sent: Monday, January 27, 2014 1:41 PM
To: 'Michael Fletcher'; Axelrod, Brett A.
Cc: 'Reed S. Waddell'; 'Christopher D. Crowell'; 'Lewis Eileen'; 'Gregory Badura'; Nathan Schultz (nschultzesq@gmail.com)
Subject: RE: In re Martifer v Cathay Bank, ADV 14-10014 Requests re OST
Attachments: 24576405_1_Stipulation re Interim Use of Cash Collateral, TRO and Continued Hearings.DOC

All, attached for your consideration is the proposed stipulation and order if we have an agreement to the terms below.

From: Rustia Moore, Micaela
Sent: Monday, January 27, 2014 1:29 PM
To: 'Michael Fletcher'; Axelrod, Brett A.
Cc: Reed S. Waddell; Christopher D. Crowell; Lewis Eileen; Gregory Badura; Nathan Schultz (nschultzesq@gmail.com)
Subject: RE: In re Martifer v Cathay Bank, ADV 14-10014 Requests re OST

Attached is the emergency cash needs of the company. If Cathay Bank is willing to stipulate to the use of its cash collateral as set forth on the attached plus a stay of the pending state court litigation, then the Debtors are willing to continue the hearings on the cash collateral and TRO/preliminary injunction motions.

From: Michael Fletcher [<mailto:mfletcher@frandzel.com>]
Sent: Sunday, January 26, 2014 5:57 PM
To: Axelrod, Brett A.
Cc: Rustia Moore, Micaela; Reed S. Waddell; Christopher D. Crowell; Lewis Eileen; Gregory Badura
Subject: Re: In re Martifer v Cathay Bank, ADV 14-10014 Requests re OST

So, when do we get the details I asked to receive?

On Jan 26, 2014, at 11:43 AM, Axelrod, Brett A. <BAxelrod@foxrothschild.com> wrote:

I will also have prepared a short stipulation pending your client's review and consent to the budget to continue the hearing on Tuesday preserving everyone's right etc and setting forth a briefing schedule.

Sent from my iPhone

On Jan 26, 2014, at 11:36 AM, "Michael Fletcher"
<mfletcher@frandzel.com> wrote:

Brett: fundamentally what you're proposing is an arrangement with money that doesn't belong to me, I will have to discuss it with the bank tomorrow morning. In that regard I need to know how much you're proposing to spend, to whom it would be given, the source of the money, and for how long the interim arrangement would last. Please provide that information.

Sent from my iPhone

On Jan 26, 2014, at 10:44 AM, "Axelrod, Brett A." <BAxelrod@foxrothschild.com> wrote:

Michael,

If Cathay bank is willing to consent to the interim use of cash collateral and the tro pending a hearing the debtors would accommodate your request. Please advise.

Sent from my iPhone


On Jan 26, 2014, at 9:36 AM, "Michael Fletcher" <mfletcher@frandzel.com> wrote:

As of Saturday, Cathay finally seems to have received from you most of the applicable pleadings as to financial issues. It is still not clear that we have all of them, but we do now have a sufficient number of the applicable pleadings and evidentiary support to be able to begin our evaluation of the financial requests. As of yesterday.

While Cathay would not oppose the issuance of an order shortening time to address the financial motions (cash collateral, DIP financing, and the TRO request --- which I don't believe we have yet), trying to have those hearings on Tuesday, 1/28, with initial oppositions to be filed tomorrow, is not only unrealistic but inequitable and unfair to Cathay. You have been working on these since December. Why Cathay is only seeing them at the last moment is a topic for another discussion. Please propose a more realistic time frame to have the initial financial hearings on shortened time.

Michael Fletcher
FRANDZEL ROBINS BLOOM & CSATO, L.C.
6500 Wilshire Boulevard, 17th Floor

Los Angeles, CA 90048-4920
Phone: 323-852-1000
Facsimile: 323-651-2577
E-mail: mfletcher@frandzel.com
Web: www.frandzel.com

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<image001.jpg>

From: Chlum, Patricia [<mailto:pchlum@foxrothschild.com>]
Sent: Saturday, January 25, 2014 2:59 PM
To: j.michal.bloom@usdoj.com; Cathay Bank Local Counsel; Cathay Bank Local Counsel 2; Clean Energy and California CEC; Clean Energy2; Clean Energy3; Michael Fletcher; Reed S. Waddell; Sam Schwartz
Cc: Axelrod, Brett A.; Rustia Moore, Micaela
Subject: In re Martifer v Cathay Bank, ADV 14-10014

Attached are the following:

- Verified Complaint for Preliminary Injunction [Dkt. 1]
- Motion for TRO [Dkt. 3]
- Declaration of Klaus Bernhart with exhibits [Dkt. 4]

Patricia Chlum
Paralegal
Fox Rothschild LLP
3800 Howard Hughes Pkwy
Suite 500
Las Vegas, NV 89169
(702) 699-5909 - direct
(702) 597-5503- fax
pchlum@foxrothschild.com
www.foxrothschild.com

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